**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**O.O.C.J.**

**SUMMONS FOR JUDGMENT NO. 703 OF 2004**

**IN**

**SUMMARY SUIT NO. 947 OF 2004**

Metal Box India Ltd .....Plffs.
vs.
Bhagwan Gobindram Bhavnani .....Defnds.

F.E. D'vetre i/b,. D.H. Law Associates for the plffs.

U.J. Makhija i/b. Nameet and Co. for the defnds.

**CORAM: S.U. KAMDAR, J.**

**DATE : 13th September, 2005.**

**P.C. :**.

1. The present suit is filed for the recovery of rent for over-staying into the premises by the defendant who was the ex-employee of the company. The company has purpotedly claimed the amount under Clause-19 of the said agreement. The said clause-19 is reproduced as under:

> "19. The employee hereby declares that he is aware that the premises are company's property and he is bound to quit and vacate the premises and deliver vacant possession of the premises whenever required by the company by formal/informal notice. In case the employee overstays, he agrees and undertakes to pay a daily charges of RS.150/- (Rupees One hundred Fifty only) during the period of his overstay without prejudice to the Company's other rights hereinabove contained."

2. On plain reading of Clause 19 it is clear that the suit cannot be based under O.37 R.2. Furthermore the plaintiff is not the landlord and is a tenant. In that view of the matter the present suit is not maintainable as a summary suit. Unconditional leave to defend.

3. Suit is transferred to the list of Commercial Causes. Written statement or points of defence to be filed four weeks from today. Affidavits, list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on board of the learned Judge taking Commercial Causes.

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